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*Attorneys for Plaintiffs People of the State of  
California ex rel. California Department of Fish  
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Control Board, Central Coast Region*

IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

**UNITED STATES OF AMERICA  
and PEOPLE OF THE STATE OF  
CALIFORNIA, ex rel. CALIFORNIA  
DEPARTMENT OF FISH AND  
GAME and CALIFORNIA  
REGIONAL WATER QUALITY  
CONTROL BOARD, CENTRAL  
COAST REGION,**

Plaintiffs,

**v.**

**HVI CAT CANYON, INC. f/k/a  
Greka Oil and Gas, Inc.,**

Defendant.

CV 11-05097 FMO (SSx)

**STATE OF CALIFORNIA'S  
PROPOSED FINDINGS OF FACT  
AND CONCLUSIONS OF LAW RE  
SUPPLEMENTAL CLAIMS  
[POST-TRIAL]**

1 In compliance with the Court's Order re: Further Proceedings (Dkt. No. 461),  
 2 Plaintiff the People of the State of California ex rel. California Department of Fish  
 3 and Game and California Regional Water Quality Control Board, Central Coast  
 4 Region (California), respectfully submit the following proposed findings of fact  
 5 (CFOF) and conclusions of law (CCOL) as they relate to California's Claim Nos. 1  
 6 through 4, and 8 through 19<sup>1</sup>:

### 7 **FINDINGS OF FACT RE SUPPLEMENTAL CLAIMS**

#### 8 July 16, 2007 Bell Family Line Spill (CA Claims 1 and 8)

9 CFOF 1. HVI Cat Canyon Inc. (fka Greka Oil and Gas Inc.) has owned and  
 10 operated the oil field production site known as the Bell Facility in Santa Maria,  
 11 California from 1999 to the present. [Stipulated, Dkt. No. 426 at 2:22-23]

12 CFOF 2. On July 16, 2007, HVI Cat Canyon employee Sherrie Sargeant  
 13 reported that a "hole" in a "family line" on the Bell Facility discharged petroleum  
 14 into a creek bed which has been identified by the parties as Palmer Road Creek.  
 15 [Stipulated, Dkt. No. 426 at 6:14-16]

16 CFOF 3. The discharge from the ruptured family line at the Bell Facility was  
 17 discovered flowing in Palmer Road Creek on July 16, 2007 by a contractor working  
 18 for another oil company; the discharge was not detected by HVI Cat Canyon  
 19 employees prior to that time. [Dkt. No. 465 at 24:25-25:9 (10/22/18 Trial Tr.  
 20 Vol. I, Test. of Dostal)]

21 CFOF 4. The ruptured family line that was discovered on July 16, 2007 at  
 22 HVI Cat Canyon's Bell Facility transported a mixture of petroleum and petroleum-  
 23 related substances that was 1.8% crude oil, and 98.2% water, salts, and other  
 24 chemical substances from the same underground formation as the crude oil which is  
 25 commonly referred to the oilfield production industry as "produced water."  
 26 [Stipulated, Dkt. No. 426 at 6:17-23]

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27 <sup>1</sup> California's Claim Nos. 5, 6 and 7, based on violations of the federal Clean  
 28 Water Act, were dismissed immediately prior to trial.

1 CFOF 5. Based upon HVI Cat Canyon production records, field  
2 measurements provided by representatives of HVI Cat Canyon and the California  
3 Department of Fish and Wildlife (Wildlife), reports prepared by those  
4 representatives, an agreement between HVI Cat Canyon and Wildlife regarding the  
5 volume of crude oil recovered from Palmer Road Creek, and reports provided to the  
6 Court by qualified experts, the Court determines 294 barrels (12,348 gallons) of  
7 crude oil and 16,333 barrels (685,986) of produced water were released into Palmer  
8 Road Creek due to the failure of the family line at HVI Cat Canyon's Bell Facility  
9 that was discovered on July 16, 2007. [Dkt. No. 345-6 (Hackstedt Decl.) ¶¶ 28, 29,  
10 TREX US2527 at 34-35; Dkt. No. 434-4 (Gross Decl.) ¶ 21, TREX US1299]

11 CFOF 7. Palmer Road Creek is part of a coastal live oak riparian woodland  
12 habitat that serves as important habitat, shelter and breeding grounds for  
13 invertebrates, reptiles, birds, small mammals such as rabbits, squirrels and  
14 raccoons, and larger mammals such as coyotes, deer, bobcats and mountain lions.  
15 Palmer Road Creek feeds downstream into the Sisquoc River and then the Santa  
16 Maria River, which forms an important coastal estuary on the California coast.  
17 These waterways also serve as habitat for steelhead trout and the red-legged frog,  
18 both key species to the California coastal environment. [Dkt. No. 434-6 (Connell  
19 Decl.) ¶¶ 6 to 12]

20 CFOF 7. Exposure to crude oil causes substantial harm to the plants and  
21 animals in a coastal live oak riparian woodland habitat. Animals suffer fertility  
22 impacts as a result of exposure to oil. Animals may be exposed not only directly  
23 through coating, but also indirectly as a result of grooming or ingesting oil insects  
24 or other animals. [Dkt. No. 434-6 (Connell Decl.) ¶¶ 13 to 15]

25 CFOF 8. Because oiled animals seek shelter in bushes, crevices and  
26 burrows, they often go undetected during oil spill response efforts. [Dkt. No. 434-6  
27 (Connell Decl.) ¶ 14]

28 CFOF 9. Because produced water contains salts, metals, dissolved

1 hydrocarbons, alkylated phenols, and other chemical substances, exposure to  
2 produced water is harmful to plants and animals in a coastal live oak riparian  
3 woodland habitat. [Dkt. No. 434-6 (Connell Decl.) ¶ 13]

4 CFOF 10. Streambeds are adversely impacted by oil spills and subsequent  
5 recovery efforts not only because of the loss of plants and wildlife, but also because  
6 removal of oiled vegetation and sediment causes channelization and straightening  
7 of the stream bed. This activity reduces streambed sedimentation, thereby reducing  
8 the amount of habitat the stream provides for plants and animals over the long term.  
9 [Dkt. No. 414 (Curtis Decl.) ¶ 24]

10 CFOF 11. It is the custom and practice in the oilfield production community  
11 to employ means to inhibit the corrosion of metal flow lines which transport crude  
12 oil and produced water through the environment. At the time of the July 16, 2007  
13 Bell Family Line Spill, and thereafter, these practices included the following:

14 (a) Cathodic protection, which inhibits corrosion of metal pipe by  
15 making it the “cathode” of an electrochemical cell and using a “sacrificial metal” to  
16 direct the corrosive properties away from the flow line;

17 (b) External “pipe wrap” which provides protection from precipitation  
18 and other sources of corrosion in the environment;

19 (c) Chemical “corrosion inhibitors” which help prevent internal  
20 corrosion of metal pipes that carry water, such as the Bell Family Line which was  
21 discovered to be leaking on July 16, 2007, and other Bell Facility flow lines found  
22 to be leaking on May 1, 2009, July 2, 2009, and October 14, 2010. [Dkt. No. 345-  
23 11 (Kinworthy Decl.), ¶¶ 6, 7, 23(a), Ex. A (Rpt.) at 13-14, 26; Dkt. No. 467 at  
24 53:22-54:5 (10/23/18 Trial Tr. Vol. I, Test. of Kinworthy)]

25 CFOF 12. It is the custom and practice in the oilfield production community  
26 to inspect flow lines on a regular basis to insure integrity. At the time of the July  
27 16, 2007 Bell Family Line Spill, these inspection methods, as regularly used in the  
28 industry, included visual monitoring for above-ground pipes on a day-to-day basis,

1 and the use of pressure-testing for both above-ground and buried flow lines on a  
2 schedule appropriate for the age and composition of the subject lines. [Dkt. No.  
3 345-11 (Kinworthy Decl.), ¶¶ 6, 7, 23(a), 23(b) Ex. A (Rpt.) at 14-15, 26]

4 CFOF 13. It is the custom and practice of the oilfield production community  
5 to implement a flow line management program to prevent releases of crude oil and  
6 produced water into the environment. Oilfield operators should also implement  
7 flow line management as part of their Spill Prevention, Control and Containment  
8 (SPCC) plans. [Dkt. No. 345-11 (Kinworthy Decl.), ¶¶ 6, 7, 23(a), 23(b) Ex. A  
9 (Rpt.) at 13-15, 20, 26]

10 CFOF 14. HVI Cat Canyon did not employ cathodic protection, pipe wrap,  
11 or chemical corrosion inhibitors to protect the Bell Family Line from corrosion  
12 prior to the release of crude oil and produced water into the environment that was  
13 discovered on July 16, 2007. [Dkt. No. 434-3 (Dostal Decl.) ¶¶ 5, 6, 8; TREX  
14 US1372; Dkt. No. 345-11 (Kinworthy Decl.), ¶¶ 6, 7, 23(a), 23(b) Ex. A (Rpt.) at  
15 13-15, 20, 26; Dkt. No. 467 at 47:12-18 (10/23/18 Trial Tr. Vol. I, Test. of  
16 Kinworthy)]

17 CFOF 15. HVI Cat Canyon did not train its operators regarding industry  
18 standard methods of corrosion control. [Dkt. No. 400-12 (Muñoz Dep. Vol. II)  
19 418:8-11]

20 CFOF 16. The July 16, 2007 Bell Family Line Spill was the result of  
21 corrosion. [Dkt. No. 434-3 (Dostal Decl.) ¶ 8, TREX US1341; Dkt. No. 345-11  
22 (Kinworthy Decl.), ¶¶ 6, 7, 23(a), Ex. A (Rpt.) at 13-14, 26; Dkt. No. 467 at 53:22-  
23 54:5 (10/23/18 Trial Tr. Vol. I, Test. of Kinworthy)]

24 CFOF 17. HVI Cat Canyon did not conduct regular inspections of the Bell  
25 Family Line as part of a flow line integrity program prior to the release of crude oil  
26 and produced water into the environment that was discovered on July 16, 2007.  
27 [Dkt. No. 400-12 (Muñoz Dep. Vol. II), 424:9-17; Dkt. No. 400-15 (Scully Dep.  
28 Vol. II) 523:21-524-19; Dkt. No. 467 at 49:8-50:3 (10/23/18 Trial Tr. Vol. I, Test.

1 of Kinworthy)]

2 CFOF 18. In January of 2005, and repeatedly thereafter, the United States  
3 Environmental Protection Agency Notified HVI Cat Canyon that it did not have an  
4 adequate flow line maintenance program in place at the Bell Facility. [Dkt. No.  
5 345-2 (Reich Decl.) ¶¶ 20-23; Dkt. No. 467 at 98:15-99:2 (10/23/18 Trial Tr. Vol. I,  
6 Test. of Reich)] HVI Cat Canyon did not implement a flow line management plan  
7 for the Bell Facility prior to the release of crude oil and produced water from the  
8 Bell Family Line into the environment that was discovered on July 16, 2007. [Dkt.  
9 No. 400-7 (Felt Dep.) 108:10-14; Dkt. No. 400-12 (Muñoz Dep. Vol. II) 424:9-17;  
10 Dkt. No. 400-15 (Sally Dep. Vol. II) 524:1-19]

11 CFOF 19. At the time of the July 16, 2007 Bell Family Line Spill, HVI Cat  
12 Canyon did not know where all of its flow lines were located on the Bell Facility.  
13 [Dkt. No. 400-7 (Felt Dep.) 77:11-16]

14 CFOF 20. HVI Cat Canyon caused a significant release of crude oil and  
15 produced water on December 7, 2005 due to the failure of a storage tank and  
16 surrounding containment facilities. During and after the response to that release,  
17 representatives of Wildlife informed HVI Cat Canyon that it should have trained  
18 personnel available to address such releases, relationships with qualified spill  
19 response contractors to facilitate prompt and effective response, proper equipment  
20 for personnel engaged in spill response, and a source of clean hot water to flush  
21 oiled creek beds should another release occur. Wildlife also advised HVI Cat  
22 Canyon that it should build and maintain better containment facilities to protect the  
23 environment from oil and produced water that may be released from tanks or other  
24 facilities. [Dkt. No. 414 (Curtis Decl.) ¶¶ 9, 16, TREX US0771, Section X, p. 13]

25 CFOF 21. HVI Cat Canyon did not have a current health and safety plan that  
26 met industry and regulatory standards for use in addressing the response to the  
27 release of crude oil and produced water that was discovered at the Bell Facility on  
28 July 16, 2007. [Dkt. No. 434-4 (Gross Decl.) ¶ 11]



1 CFOF 22. HVI Cat Canyon failed to meet Wildlife directives that they have  
2 a sufficient number of trained personnel available to effectively respond to the  
3 release of crude oil and produced water that was discovered at the Bell Facility on  
4 July 16, 2007 in a timely manner. [Dkt. No. 434-4 (Gross Decl.) ¶10; Dkt. No. 414  
5 (Curtis Decl.) ¶ 26]

6 CFOF 23. HVI Cat Canyon did not follow Wildlife's recommendation that it  
7 have a qualified oil spill response contractor available to respond to releases from  
8 its operations. No such oil spill response contractor was at the scene of the July 16,  
9 2007 Bell Family Line Spill until a week after the release was discovered. [Dkt.  
10 No. 414 (Curtis Decl.) ¶ 22; Dkt. No. 434-4 (Gross Decl.) ¶ 15]

11 CFOF 24. HVI Cat Canyon personnel cleaning up crude oil in Palmer Road  
12 Creek after the release was discovered on July 16, 2007 did not have HAZWOPER  
13 certification, and several of them had no experience in responding to such releases.  
14 [Dkt. No. 434-4 (Gross Decl.) ¶ 10]

15 CFOF 25. HVI Cat Canyon personnel cleaning up crude oil in Palmer Road  
16 Creek after the release was discovered on July 16, 2007 did not have proper  
17 personal protective equipment (PPE). [Dkt. No. 434-4 (Gross Decl.) ¶ 10]

18 CFOF 26. HVI Cat Canyon did not provide effective air monitoring to  
19 protect workers responding to the release of crude oil discovered on July 16, 2007.  
20 [Dkt. No. 434-4 (Gross Decl.) ¶ 12]

21 CFOF 27. To protect workers and the environment, Wildlife required HVI  
22 Cat Canyon to stop its response to the release of crude oil and produced water  
23 discovered at the Bell Facility on July 16, 2007. [Dkt. No. 434-4 (Gross Decl.)  
24 ¶ 13] This caused a delay of one week, which allowed oil to further contaminate  
25 the environment. [Dkt. No. 434-4 (Gross Decl.) ¶14; Dkt. No. 414 (Curtis Decl.)  
26 ¶ 30]

27 CFOF 28. The delay caused by HVI Cat Canyon's inadequate and unsafe  
28 spill response allowed the crude oil released into the streambed to continue to

1 harden, making it more difficult to clean up and causing additional damage to the  
2 banks and bed of Palmer Road Creek. [Dkt. No. 414 (Curtis Decl.) ¶ 23]

3 CFOF 29. HVI Cat Canyon did not follow Wildlife's directives to have  
4 sufficient haz-mat bins available for the response to the July 16, 2007 Bell Family  
5 Line Spill. These bins are important to avoid secondary containment of the riparian  
6 habitat and protect wildlife from further exposure to petroleum contaminants. HVI  
7 Cat Canyon's delay in providing adequate haz-mat storage capacity caused further  
8 damage to the environment, including exposure of deer to oiled materials. [Dkt.  
9 No. 400-15 (Sally Dep. Vol. II) 540:12-25; Dkt. No. 414 (Curtis Decl.) ¶¶ 27, 28;  
10 Dkt. No. 434-6 (Connell Decl.) ¶¶ 24, 28, 32]

11 CFOF 30. Produced water released into the environment as a result of the  
12 July 16, 2007 Bell Family Line Spill soaked into the soil and was not removed with  
13 the crude oil recovered during the response. [Dkt. No. 434-4 (Gross Decl.) ¶ 7;  
14 Dkt. No. 434-3 (Dostal Decl.) ¶ 11]

15 CFOF 31. HVI Cat Canyon failed to follow Wildlife's direction to avoid  
16 damage to oak trees while using heavy equipment. During the course of the  
17 response to the July 16, 2007 Bell Family Line Spill, HVI Cat Canyon caused  
18 significant damage to at least one oak. [Dkt. No. 434-6 (Connell Decl.) ¶ 34,  
19 TREX 1335, DFG010824; Dkt. No. 414 (Curtis Decl.) ¶ 29]

20 CFOF 32. HVI Cat Canyon did not employ effective techniques to stem the  
21 flow of crude oil and produced water into the environment, even after its personnel  
22 discovered the corroded flow line that caused the July 16, 2007 Bell Family Line  
23 Spill. [Dkt. No. 434-3 (Dostal Decl.) ¶ 10; Dkt. No. 465 at 76:24-77:7 (10/22/18  
24 Trial Tr. Vol. I, Test. of Dostal)]

25 CFOF 33. At the time crude oil and produced water were discovered leaking  
26 from a corroded family line at the Bell Facility on July 16, 2007, HVI Cat Canyon's  
27 corporate slogan and mission statement was "Working for Profits." [Dkt. No. 400-  
28 15 (Sally Dep. Vol. II) 534:19 to 536:1]



1 CFOF 34. From the time HVI Cat Canyon commenced operations at the Bell  
 2 Facility in 1999 through January 2010, it derived an economic benefit in the form  
 3 of cost savings resulting from lack of compliance with industry standards and  
 4 regulations. This included failure to use corrosion control techniques, and to  
 5 implement a meaningful flow line integrity management program that included  
 6 regular inspection, maintenance and replacement of aging infrastructure. The  
 7 economic benefit HVI Cat Canyon derived from its failure to comply with  
 8 standards and regulations at its facilities in Santa Maria and Los Olivos is  
 9 reasonably valued at \$6,317,199. [Dkt. No. 423-1 (Meyer Decl.) at ¶¶ 7-11]

10 CFOF 35. Defendant's ultimate beneficial economic interest holder,  
 11 Randeep Grewal, received an over-riding royalty interest whereby he, or his  
 12 designee, received substantial income regardless of Defendant's profitability. [Dkt.  
 13 No. 423-1 (Meyer Decl.) at ¶ 26]

14 CFOF 36. The July 16, 2007 Bell Family Line Spill destroyed 0.55 miles of  
 15 riparian habitat supported by Palmer Road Creek. [Dkt. No. 434-3 (Dostal Decl.)  
 16 ¶ 12; Dkt. No. 434-6 (Connell Decl.) ¶¶ 26-31]

17 CFOF 37. Based upon the lost use of 0.55 miles of Palmer Road Creek over  
 18 at least two years, the July 16, 2007 Bell Family Line Spill caused natural resource  
 19 damages reasonably valued at \$10,480. [Dkt. No. 434-5 (Stanton Decl.) ¶¶ 2-10,  
 20 TREX US1424]

21 CFOF 38. The July 17, 2007 Bell Family Line Spill required Wildlife to  
 22 incur response costs in the amount of \$3,597.11 that were not reimbursed by HVI  
 23 Cat Canyon. [Dkt. No. 345-18 (Abe Decl.) ¶¶ 7, 13, TREX CA5006]  
 24 December 7, 2007 Blochman Pond Overspill (CA Claims 2 and 9)

25 CFOF 39. The Bell Facility includes the Blochman Injection Pond. As part  
 26 of its production operations, HVI Cat Canyon separates produced water from crude  
 27 oil; it stores resulting waste water into the Blochman Injection Pond. From there  
 28 the waste water is re-injected into the underground formation from which it was

1 taken. [Stipulated, Dkt. No. 426 at 2:27-3:3]

2 CFOF 40. On December 7, 2007, HVI Cat Canyon operators reported to  
3 Wildlife that the Blochman Injection Pond overflowed into Palmer Road Creek.  
4 [Stipulated, Dkt. No. 426 at 6:25-27]

5 CFOF 41. Based upon HVI Cat Canyon production records, field  
6 measurements provided by representatives of HVI Cat Canyon and Wildlife, reports  
7 prepared by those representatives, an agreement between HVI Cat Canyon and  
8 Wildlife regarding the volume of crude oil recovered from Palmer Road Creek, and  
9 reports provided to the Court by qualified experts, the Court determines 2,118  
10 barrels (88,956 gallons) of crude oil and 2,000 barrels (84,000 gallons) of produced  
11 water were released into Palmer Road Creek due to the overflow of the injection  
12 pond at HVI Cat Canyon's Bell Facility that was discovered on December 7, 2007.  
13 [Dkt. No. 345-6 (Hackstedt Decl.) ¶¶ 38, 48, 50, 53, TREX US2527; Dkt. No. 400-  
14 17 (Wedderburn Dep.) 105:8-23, TREX US1061; Dkt. No. 434-4 (Gross Decl.)  
15 ¶¶ 25-26; Dkt. No. 434-3 (Dostal Decl.) ¶ 27]

16 CFOF 42. It is the custom and practice in the oilfield production industry to  
17 implement warning mechanisms to avoid unintended overflows of facilities which  
18 store crude oil and/or produced water. Typically, these take the form of alarm  
19 systems or regular inspections by oilfield operators; both of these methods were  
20 available to HVI Cat Canyon at the time the Blochman Ponds Overspill was  
21 discovered on December 7, 2007. [Dkt. No. 345-11 (Kinworthy Decl.), ¶ 23(B),  
22 Ex. A (Rpt.) at 6]

23 CFOF 43. Prior to the December 7, 2007 Blochman Ponds Overspill, HVI  
24 Cat Canyon experienced numerous problems with the alarm system it utilized at  
25 that facility. The alarms were regularly tripped without incident, causing  
26 complacency and a lack of confidence in the mechanism. [Dkt. No. 434-3 (Dostal  
27 Decl.) ¶¶ 13, 14, TREX US0969.] The system was likewise in need of constant  
28 maintenance, and was repaired the day before the Blochman Ponds Overspill was

1 reported. [Dkt. No. 434-3 (Dostal Decl.) ¶¶ 16, 17, 18, TREX US0969]

2 CFOF 44. HVI Cat Canyon utilized an alarm system at its Davis Tank  
3 Battery in the Zaca Facility prior to the December 7, 2007 Blochman Ponds  
4 Overspill; that alarm system failed to notify HVI Cat Canyon personnel of an  
5 overflow at the Davis Tank Battery that caused a catastrophic tank failure on  
6 December 7, 2005. [Dkt. No. 434-3 (Dostal Decl.) ¶ 66; Dkt. No. 400-7 (Felt Dep.)  
7 128:20-129:7.] Therefore, HVI Cat Canyon implemented 24-hour manned  
8 operation of the Davis Tank Battery as part of its spill prevention procedures. [Dkt.  
9 No. 400-7 (Felt Dep.) 72:21-73:4; Dkt. No. 434-3 (Dostal Decl.) ¶¶ 28, 34, TREX  
10 US0195]

11 CFOF 45. HVI Cat Canyon did not implement 24-hour manned operation at  
12 the Blochman Ponds prior to the failure that caused the release of oil and waste  
13 water into Palmer Road Creek that was discovered on December 7, 2007. [Dkt. No.  
14 400-12 (Muñoz Dep. Vol. II) 355:20-356:1, 432:2-22, 433:4-7]

15 CFOF 46. The Blochman Ponds overflowed because a motor running an  
16 injection pump failed; therefore, water was not being pumped from the ponds back  
17 beneath the surface fast enough to keep up with crude oil and waste water flowing  
18 into the ponds from oil wells. [Dkt. No. 434-3 (Dostal Decl.) ¶ 19; Dkt. No. 400-12  
19 (Muñoz Dep. Vol. II) 325:7-14, 325:22-24, 330:21-331:1; Dkt. No. 465 at 37:6-13  
20 (10/22/18 Trial Tr. Vol. I, Test. of Dostal)]

21 CFOF 47. HVI Cat Canyon employees were able to get the failed engine at  
22 the Blochman Pond to start, after discovering the release, by changing the spark  
23 plugs. The engine driving the pump was not enclosed. [Dkt. No. 434-3 (Dostal  
24 Decl.) ¶ 20] Accordingly, the Court finds that the engine stalled because rain water  
25 entered the mechanism.

26 CFOF 48. There were ten available spots to locate injection pump systems  
27 that could empty waste water from the Blochman Ponds and reinject that waste  
28 water into the subsurface. At the time of the Blochman Ponds Overspill, only two

1 were being utilized by HVI Cat Canyon. [Dkt. No. 434-3 (Dostal Decl.) ¶ 20]

2 CFOF 49. HVI Cat Canyon did not have a regular maintenance schedule for  
3 the pump motors utilized at the Bell Facility. [Dkt. No. 400-16 (Tull Dep.) 111:11-  
4 13; Dkt. No. 400-15 (Sally Dep. Vol. II) 527:13-16]

5 CFOF 50. At the time of the December 7, 2007 Blochman Ponds Overspill,  
6 the concrete walls of the ponds were in substantial disrepair. Crude oil and waste  
7 water escaped through holes and over missing concrete blocks that were below the  
8 top level of the ponds as originally designed and constructed. [Dkt. No. 434-3  
9 (Dostal Decl.) ¶ 21, TREX US1125, TREX US3133; Dkt. No. 434-4 (Gross Decl.)  
10 ¶ 22; Dkt. No. 400-15 (Sally Dep. Vol. II) 556:23-557:3]

11 CFOF 51. Prior to the December 7, 2007 Blochman Ponds Overspill, HVI  
12 Cat Canyon allowed a large Baker tank to be placed onto its property near that  
13 facility. The Baker tank altered the flow of crude oil and waste water escaping  
14 from the dilapidated concrete wall of the ponds such that it did not flow into an  
15 adjacent containment area, but instead directly into Palmer Road Creek. [Dkt. No.  
16 434-3 (Dostal Decl.) ¶¶ 23, 24, TREX US3215]

17 CFOF 52. HVI Cat Canyon did not have a regular inspection program to  
18 assure the integrity of storage facilities such as the Blochman Ponds. [Dkt. No.  
19 400-15 (Sally Dep. Vol. II) 523:21-524:19]

20 CFOF 53. HVI Cat Canyon did not have a regular inspection program to  
21 assure the integrity of its containment berms, such as the one that failed during the  
22 December 7, 2007 Blochman Ponds Overspill. [Dkt. No. 400-15 (Sally Dep.  
23 Vol. II) 523:21-524:19; Dkt. No. 400-12 (Muñoz Dep. Vol. II) 423:16-21]

24 CFOF 54. HVI Cat Canyon failed to meet Wildlife's requirement that 60  
25 persons promptly address the response to the December 7, 2007 Blochman Pond  
26 Overspill; only 30 persons were on-site, causing fatigue and inefficiency. [Dkt. No.  
27 434-3 (Dostal Decl.) ¶26; Dkt. No. 434-6 (Connell Decl.) ¶ 38]

28 CFOF 55. HVI Cat Canyon failed to meet Wildlife's requirement that an

adequate number of haz-mat bins be used for the response to the December 7, 2007 Blochman Pond Overspill; as a consequence, uncovered bins were used that exposed wildlife and created additional air emissions. [Dkt. No. 434-6 (Connell Decl.) ¶ 38]

CFOF 56. HVI Cat Canyon failed to meet Wildlife's requirement that crude oil collected under a storage shed be promptly addressed as part of the response to the December 7, 2007 Blochman Pond Overspill; as a result, heavy rains washed over the released oil under the shed and into Palmer Road Creek, causing additional environmental impacts. [Dkt. No. 434-3 (Dostal Decl.) ¶¶ 23, 26, TREX US1125; Dkt. No. 434-6 (Connell Decl.) ¶ 39]

CFOF 57. Produced water released into the environment as a result of the December 7, 2007 Blochman Pond Overspill soaked into the soil and was not removed with the crude oil recovered during the response. [Dkt. No. 434-6 (Connell Decl.) ¶ 36, TREX US0971; Dkt. No. 434-3 (Dostal Decl.) ¶ 25]

CFOF 58. The December 7, 2007 Blochman Pond Overspill destroyed one-half mile of riparian habitat supported by and within Palmer Road Creek. [Dkt. No. 434-3 (Dostal Decl.) ¶ 25; Dkt. No. 434-6 (Connell Decl.) ¶ 40, TREX US0971]

CFOF 59. Based upon the lost use of one-half mile of Palmer Road Creek over at least two years, the December 7, 2007 Blochman Pond Overspill caused natural resource damages reasonably valued at \$10,592. [Dkt. No. 434-5 (Stanton Decl.) ¶¶ 2-10, TREX US1424]

CFOF 60. The December 7, 2007 Blochman Pond Overspill required Wildlife to incur response costs in the amount of \$2,588.31 that were not reimbursed by HVI Cat Canyon. [Dkt. No. 345-18 (Abe Decl.) ¶¶ 8,14, TREX CA5007]

January 5, 2008 Davis Tank Battery Spill (CA Claims 3 and 10)

CFOF 61. On January 5, 2008 and for years prior to that time, HVI Cat Canyon operated the oilfield production facilities in Los Olivos known as the Zaca

1 Facility. [Stipulated, Dkt. No. 426 at 5:13-14]

2 CFOF 62. The Zaca Facility includes the Davis Tank Battery where two  
3 large (3,300 gallon) waste water tanks are maintained. Like the Blochman Ponds,  
4 these tanks are designed to hold waste water left over from the oil/water separation  
5 process. That waste water is pumped from the storage tanks at the Davis Tank  
6 Battery and re-injected into the sub-surface. [Stipulated, Dkt. No. 426 at 5:22-27]

7 CFOF 63. HVI Cat Canyon was responsible for the release of crude oil and  
8 waste water from one of the large storage tanks operated by HVI Cat Canyon at the  
9 Davis Tank Battery; this initial release was discovered on December 7, 2005. [Dkt.  
10 No. 400-6 (Dimitrijevic Dep.) 192:15-193:1; Dkt. No. 400-7 (Felt Dep.) 128:20-  
11 129:7]

12 CFOF 64. On January 5, 2008, HVI Cat Canyon discovered a second release  
13 from the same storage tank that was involved in the 2005 incident. The January 5,  
14 2008 release of crude oil and waste water from the Davis Tank Battery escaped  
15 secondary containment and flowed into a creek which the parties have identified as  
16 Zaca Tributary. [Dkt. No. 400-13 (Proskow Dep.) 175:18-176:5, 199:21-201:9;  
17 Dkt. No. 434-3 (Dostal Decl.) ¶ 28, TREX US0195; Dkt. No. 434-4 (Gross Decl.) ¶  
18 27; Dkt. No. 414 (Curtis Decl.) ¶ 17; Dkt. No. 434-6 (Connell Decl.) ¶ 43]

19 CFOF 65. Based upon HVI Cat Canyon production records, field  
20 measurements provided by representatives of HVI Cat Canyon and Wildlife, reports  
21 prepared by those representatives, and reports provided to the Court by qualified  
22 experts, the Court determines 3,252 barrels (136,584 gallons) of crude oil and waste  
23 water were released into Zaca Tributary due to the rupture of the waste water  
24 storage tank and failure of containment discovered at HVI Cat Canyon's Zaca  
25 Facility on January 5, 2008, of which 618 barrels (25,956 gallons) was crude oil.  
26 [Dkt. No. 345-6 (Hackstedt Decl.) ¶¶ 64-66, TREX US2527; Foto Decl. ¶¶ 13, 19,  
27 TREX US0273; TREX US0280 (Castillo Decl.) ¶¶ 13-23]

28 CFOF 66. Zaca Tributary is part of a coastal live oak riparian woodland



1 habitat that serves as important habitat, shelter and breeding grounds for  
2 invertebrates, reptiles, birds, small mammals such as rabbits, squirrels and  
3 raccoons, and larger mammals such as coyotes, deer, bobcats and mountain lions.  
4 Zaca Tributary feeds downstream into the Santa Ynez River, which forms an  
5 important coastal estuary on the California coast. This waterway serves as habitat  
6 for steelhead trout and the red-legged frog, both key species to the California  
7 coastal environment. [Dkt. No. 434-6 (Connell Decl.) ¶¶ 9 to 12]

8 CFOF 67. At the time of the initial Davis Tank Battery Spill discovered on  
9 December 7, 2005, the secondary containment facilities were in disrepair, causing  
10 crude oil and waste water to escape into the surrounding environment. [Dkt. No.  
11 414 (Curtis Decl.) ¶ 12, TREX CA5003, TREX CA 5004, TREX CA5005] Shortly  
12 after that 2005 discharge of contamination into the environment, California's Office  
13 of Spill Prevention and Response (OSPR) notified HVI Cat Canyon that the  
14 secondary containment facility at the Davis Tank Battery did not meet industry  
15 standards and needed to be repaired or rebuilt. [Dkt. No. 414 (Curtis Decl.) ¶ 16,  
16 TREX US0771]

17 CFOF 68. After the December 7, 2005 Davis Tank Battery Spill, HVI Cat  
18 Canyon's environmental compliance consultant Harlan Felt recommended that the  
19 earthen containment berms be reconstructed using cinder block to prevent  
20 deterioration from rodent burrows and erosion. This recommendation was not  
21 implemented by the time of the January 5, 2008 Davis Tank Battery Spill. [Dkt.  
22 No. 400-7 (Felt Dep.) 209:2-210:12]

23 CFOF 69. HVI Cat Canyon operators were not trained in the proper  
24 construction of secondary containment berms. [Dkt. No. 400-12 (Muñoz Dep.  
25 Vol. II) 417:6-8, 417:25-418:5]

26 CFOF 70. HVI Cat Canyon did not have inspection and preventive  
27 maintenance programs for assuring the integrity of its secondary containment  
28 berms. [Dkt. No. 400-15 (Scully Dep. Vol. II) 523:21-25, 524:13-19]

1 CFOF 71. At the time the January 5, 2008 Davis Tank Battery Spill was  
2 discovered, the secondary containment facility had not been rebuilt and remained in  
3 disrepair. [Dkt. No. 414 (Curtis Decl.) ¶ 19.] In addition, the prophylactic  
4 properties of the inadequate secondary containment system were foiled by the  
5 existence of an unchecked drainage pipe that allowed crude oil and waste water to  
6 escape from the containment pond into the environment. [Dkt. No. 414 (Curtis  
7 Decl.) ¶ 18; Dkt. No. 434-3 (Dostal Decl.) ¶¶ 29, 30, TREX US0550; Dkt. No. 434-  
8 4 (Gross Decl.) ¶ 27; Dkt. No. 400-13 (Proskow Dep.) 159:11-163:16]

9 CFOF 72. It is a standard practice in oilfield production operations to install  
10 a valve on pipes used to drain water from secondary containment systems. The  
11 practice in the industry is to assure that the valve remains locked in a closed  
12 position – preserving the integrity of the containment pond – and only opened  
13 intentionally during manned operations to drain collected rainwater. [Dkt. No. 345-  
14 11 (Kinworthy Decl.), ¶¶ 6, 7, Ex. A (Rpt.) at 8; Dkt. No. 414 (Curtis Decl.) ¶ 18]

15 CFOF 73. The unchecked drainage pipe at the Davis Tank Battery allowed  
16 crude oil and produced water to escape from the inadequate secondary containment  
17 on at least one occasion months prior to the January 5, 2008 Davis Tank Battery  
18 Spill. [Dkt. No. 434-3 (Dostal Decl.) ¶ 30, TREX US0473.] HVI Cat Canyon was  
19 aware that materials flowed unchecked from the drainage pipe at the Davis Tank  
20 Battery prior to that 2008 incident. [Dkt. No. 400-13 (Proskow Dep.) 159:11-  
21 163:16; Dkt. No. 465 at 68:2-68:14 (10/22/18 Trial Tr. Vol. I, Test. of Dostal)]

22 CFOF 74. Prior to the January 5, 2008 Davis Tank Battery Spill, HVI Cat  
23 Canyon implemented procedures for operation of the Zaca Facility which included  
24 24-hour manned operation. [Dkt. No. 400-7 (Felt Dep.) 72:21-73:4; Dkt. No. 434-3  
25 (Dostal Decl.) ¶¶ 28, 34, TREX US0195.] Nevertheless, at the time of the  
26 catastrophic tank failure that resulted in the January 5, 2008 Davis Tank Battery  
27 Spill, HVI Cat Canyon did not staff the Zaca Facility on a 24-hour basis. [Proskow  
28 Decl. 256:7-23; Dkt. No. 434-3 (Dostal Decl.) ¶ 34]

1 CFOF 75. Like the December 7, 2007 Blochman Ponds Overspill, the  
2 January 5, 2008 Davis Tank Battery operational failure involved a malfunctioning  
3 pump which operated an injection well. Once that pump system went down, the  
4 only waste water tank in use at the Davis Tank Battery was overfilled because the  
5 only other operating pump system did not have the capacity to empty the lone tank  
6 fast enough to keep up with crude oil and produced water flowing into it from oil  
7 wells. [Dkt. No. 400-13 (Proskow Dep.) 112:7-114:12; Dkt. No. 434-3 (Dostal  
8 Decl.) ¶ 33; Dkt. No. 434-4 (Gross Decl.) ¶ 29; Dkt. No. 465 at 51:14-52:2  
9 (10/22/18 Trial Tr. Vol. I, Test. of Dostal)]

10 CFOF 76. The motor driving the injection pump system that failed prior to  
11 the January 5, 2008 Davis Tank Battery Spill was electric. It failed during a  
12 rainstorm. [Dkt. No. 434-3 (Dostal Decl.) ¶¶ 28, 29, TREX US0550 (Romine  
13 statement)] It is standard practice in the oilfield production industry to enclose  
14 electric motors to protect them from the elements. [Dkt. No. 345-11 (Kinworthy  
15 Decl.), ¶¶ 6, 7, 23(f), Ex. A (Rpt.) at 10] Because the electric motor that failed  
16 during the 2008 Davis Tank Battery spill incident was not housed in an enclosure,  
17 water entered through vents, causing it to fail. [Dkt. No. 434-4 (Gross Decl.) ¶ 31]

18 CFOF 77. The motor used by HVI Cat Canyon to operate the failed injection  
19 well system was not “totally enclosed fan-cooled,” and was therefore not suitable  
20 for outdoor use. [Dkt. No. 434-4 (Gross Decl.) ¶¶ 30, 31; Dkt. No. 345-11  
21 (Kinworthy Decl.), ¶¶ 6, 7, 23(f), Ex. A (Rpt.) at 10]

22 CFOF 78. HVI Cat Canyon did not have a regular maintenance schedule for  
23 the pump motors utilized at the Zaca Facility. [Dkt. No. 400-16 (Tull Dep.)  
24 112:19-25]

25 CFOF 79. It is standard oilfield production industry practice to repair  
26 downed facilities promptly and return systems such as those utilized at the Davis  
27 Tank Battery to their original design capacity in a prompt manner. [Dkt. No. 345-  
28 11 (Kinworthy Decl.), ¶¶ 6, 7, Ex. A (Rpt.) at 11]

1 CFOF 80. The waste water storage and injection system in operation at the  
2 Davis Tank Battery during both the 2005 and 2008 waste water tank failures was  
3 designed to utilize two waste water tanks. [Dkt. No. 345-11 (Kinworthy Decl.),  
4 ¶¶ 6, 7, Ex. A (Rpt.) at 11] The Davis Tank Battery storage and injection system  
5 operated with only one waste water tank at the time of the 2005 failure. [Dkt. No.  
6 434-3 (Dostal Decl.) ¶ 67] At the time of the 2008 failure, the Davis Tank Battery  
7 storage and injection system was still operating with only one waste water tank.  
8 [Dkt. No. 434-3 (Dostal Decl.) ¶ 34; Dkt. No. 400-13 (Proskow Dep.) 112:7-  
9 114:12]

10 CFOF 81. Like the Blochman Ponds waste water storage and injection  
11 system, the one in place at the Davis Tank Battery during the time of the 2008  
12 waste water tank failure had the capacity to accept more than two injection pump  
13 systems to drain fluids from the storage facility and inject them into the sub-  
14 surface. However, only two were in place at the time of the 2008 tank failure.  
15 [Dkt. No. 434-3 (Dostal Decl.) ¶ 34]

16 CFOF 82. HVI Cat Canyon did not follow Wildlife directives to avoid  
17 tampering with the electric motor and associated connections, the failure of which  
18 caused the January 5, 2008 Davis Tank Battery Spill into Zaca Tributary. [Dkt. No.  
19 434-3 (Dostal Decl.) ¶ 34]

20 CFOF 83. The January 5, 2008 Davis Tank Battery Spill was not the result  
21 of intentional actions by an industrial saboteur. Metal plates covered the drainage  
22 pipe through which contaminants escaped from containment which were too heavy  
23 for someone to lift, and thus the pipe was not cut open immediately prior to the  
24 discovery of the January 5, 2008 Davis Tank Battery Spill. [Dkt. No. 465 at 101:7-  
25 102:10 (10/22/18 Trial Tr. Vol. I, Test. of Gross)] As set forth above, the drainage  
26 pipe was open and flowing months prior to the release. The Santa Barbara County  
27 Sheriff conducted an investigation of the January 5, 2008 Davis Tank Battery Spill,  
28 and determined there was insufficient evidence of an intentional act. [Dkt. No.

1 \_\_\_\_<sup>2</sup> at 80:7-11 (10/23/18 Trial Tr. Vol. II, Test. of Reichick)]

2 CFOF 84. HVI Cat Canyon did not follow Wildlife directives to properly  
3 segregate and store oil and oiled materials recovered during the response to the  
4 January 5, 2008 Davis Tank Battery Spill. [Dkt. No. 434-3 (Dostal Decl.) ¶ 34]

5 CFOF 85. Initially, the January 5, 2008 Davis Tank Battery Spill heavily  
6 oiled a three-quarter mile segment of Zaca Tributary. [Dkt. No. 434-6 (Connell  
7 Decl.) ¶ 45] HVI Cat Canyon and its contractors failed to construct an adequate  
8 underflow dam to contain and capture crude oil downstream of this heavily oiled  
9 segment, and it failed the night after the spill was discovered. This caused another  
10 one-half mile segment of Zaca Tributary to be contaminated with oil. [Dkt. No.  
11 434-6 (Connell Decl.) ¶ 45, TREX US3139]

12 CFOF 86. HVI Cat Canyon was instructed to construct a second underflow  
13 dam on Zaca Tributary further downstream, and strengthen the one that failed the  
14 night after the January 5, 2008 Davis Tank Battery Spill. During rain storms  
15 between January 22 and 24, 2008, both of these underflow dams failed, causing oil  
16 contamination to spread another one-half mile downstream and into two ponds.  
17 [Dkt. No. 434-6 (Connell Decl.) ¶ 48, TREX US3139]

18 CFOF 87. The failure of the two underflow dams in Zaca Tributary after the  
19 January 5, 2008 Davis Tank Battery Spill caused HVI Cat Canyon and its  
20 contractors to use more invasive and destructive techniques to remove oil from the  
21 environment, and caused additional oil contamination of Zaca Tributary. [Dkt. No.  
22 434-6 (Connell Decl.) ¶¶ 50, 51]

23 CFOF 88. The January 5, 2008 Davis Tank Battery Spill, the failed  
24 underflow dams, and the substantial sparging of the creek bed done to remove oil  
25 from the environment destroyed a three quarter mile segment of the riparian habitat  
26 supported by Zaca Tributary; another three-quarter mile stretch was significantly

27 <sup>2</sup> The parties have received the October 23, 2008, Vol. II trial transcript, but  
28 no docket entry appears to have been created for this transcript.

1 impacted in large part due to inadequate response efforts. [Dkt. No. 434-6 (Connell  
2 Decl.) ¶¶ 51, 52, TREX US3139, TREX US0469, TREX US0156 (heavy oiling in  
3 first three quarter mile impact), TREX US0160 (oiling of trees), TREX US3096  
4 (dead skunk), TREX US3097 (heavy equipment impacts), TREX US3098 (root  
5 damage), TREX US3099 (trampling by workers), TREX US3100 (mountain lion in  
6 oiled habitat), TREX US3102 (oil sheen still downstream on January 31, 2008),  
7 TREX US3104 (heavy erosion and de-sedimentation due to invasive cleanup  
8 techniques)]

9 CFOF 89. The January 5, 2008 Davis Tank Battery Spill caused the death of  
10 one Barn Owl, one Red-Tailed Hawk, another “passerine” bird, a Black Racer  
11 Snake, and 3 fence lizards. [Dkt. No. 434-4 (Gross Decl.) ¶ 34]

12 CFOF 90. Based on the loss of a three-quarter mile segment of Zaca  
13 Tributary for three years, and the loss of other segments of Zaca Tributary for two  
14 years, and the impact to the habitat and wildlife discovered during the response, the  
15 January 5, 2008 Davis Tank Battery Spill caused natural resource damages  
16 reasonably valued at \$34,404. [Dkt. No. 434-6 (Connell Decl.) ¶¶ 50-53; Dkt. No.  
17 434-5 (Stanton Decl.) ¶¶ 2-10, TREX US1424]

18 CFOF 91. The January 5, 2008 Davis Tank Battery Spill required Wildlife to  
19 incur unreimbursed response costs in the amount of \$13,612.46. [Dkt. No. 345-18  
20 (Abe Decl.) ¶¶ 9, 15, TREX CA5008]

21 January 10, 2008 Bradley 3-Island Discharge (CA Claim 11)

22 CFOF 92. On and before January 10, 2008, HVI Cat Canyon operated an oil  
23 and gas production facility known as Bradley 3-Island. [Stipulated, Dkt. No. 426 at  
24 3:12-13]

25 CFOF 93. On January 10, 2008, a compressor at HVI Cat Canyon’s Bradley  
26 3-Island facility leaked oil; HVI Cat Canyon personnel stated they were too busy to  
27 clean it up. [Dkt. No. 434-3 (Dostal Decl.) ¶ 50, TREX US3079.]

28 CFOF 94. HVI Cat Canyon did not report the January 10, 2008 release of oil



1 from its Bradley 3-Island Facility until January 24, 2008. [Dkt. No. 434-3 (Dostal  
2 Decl.) ¶ 50, 58]

3 CFOF 95. The release of oil from the compressor at HVI Cat Canyon's  
4 Bradley 3-Island Facility caused a sheen of oil to flow onto a storm water catch  
5 basin. [Dkt. No. 434-3 (Dostal Decl.) ¶ 50]

6 CFOF 96. Sometime between January 10, 2008 and January 24, 2008, HVI  
7 Cat Canyon employees opened a release valve at the storm water catch basin while  
8 there was a sheen of oil caused by the January 10, 2008 release from the Bradley 3-  
9 Island compressor, which flowed into a nearby creek. [Dkt. No. 434-3 (Dostal  
10 Decl.) ¶ 50, 58]

11 January 24, 2008 U-Cal Facility Omni Releases (CA Claim 12)

12 CFOF 97. From August 31, 2002 until December 31, 2008, HVI Cat Canyon  
13 operated an oil and gas production facility in Santa Maria, California commonly  
14 referred to as the U-Cal Facility. [Stipulated, Dkt. No. 426 at 4:23-24]

15 CFOF 98. On January 24, 2008, the "Omni Vessels" at HVI Cat Canyon's  
16 U-Cal facility released oil into ponded water that drains into a tributary to Bradley  
17 Canyon Creek. [Dkt. No. 434-3 (Dostal Decl.) ¶¶ 51, 52, TREX US3080]

18 CFOF 99. HVI Cat Canyon failed to properly drain and clean the Omni  
19 Vessels prior to the release detected on January 24, 2008. [Dkt. No. 434-3 (Dostal  
20 Decl.) ¶ 58.]

21 CFOF 100. HVI Cat Canyon did not report the January 24, 2008 Omni  
22 Vessel discharge of oil. [Dkt. No. 434-3 (Dostal Decl.) ¶ 58]

23 CFOF 101. On January 24, 2008, oil was released from the "Omni Pit" at  
24 HVI Cat Canyon's U-Cal facility, causing a sheen and small pieces of oil to be  
25 released into ponded water that drains into a tributary to Bradley Canyon Creek.  
26 [Dkt. No. 434-3 (Dostal Decl.) ¶ 52, TREX US3081]

27 CFOF 102. Bradley Canyon Creek flows into the Santa Maria River. [Dkt.  
28 No. 434-3 (Dostal Decl.) ¶ 51]

1           January 27, 2008 Security Waste Water Tank Spill (CA Claim 13)

2           CFOF 103. Since August 31, 2002 HVI Cat Canyon operated an oil and gas  
3 production facility in Santa Maria, California commonly referred to as the Security  
4 Facility. [Stipulated, Dkt. No. 426 at 4:16-17]

5           CFOF 104. On January 27, 2008, there was a release of oil from a waste  
6 water tank at HVI Cat Canyon's Security facility. [Dkt. No. 434-3 (Dostal Decl.)  
7 ¶ 53, TREX US 3082]

8           CFOF 105. The release caused an oily sheen to flow into a tributary to the  
9 Santa Maria River. [Dkt. No. 434-3 (Dostal Decl.) ¶ 53, TREX US 3082]

10           January 27, 2008 Broken Transformer Release (CA Claim 14)

11           CFOF 106. On January 27, 2008 a power pole maintained by HVI Cat  
12 Canyon at its Bradley 3-Island facility fell into a creek bed. [Dkt. No. 434-3  
13 (Dostal Decl.) ¶ 54, TREX US3082]

14           CFOF 107. The fallen power pole at HVI Cat Canyon's Bradley 3-Island  
15 facility had three transformers attached that still contained harmful PCBs; as a  
16 result of the fall the transformers broke. [Dkt. No. 434-3 (Dostal Decl.) ¶ 54,  
17 TREX US3082]

18           CFOF 108. The Court takes judicial notice that the production of PCBs for  
19 use in the manufacture of electrical equipment of was banned by federal law in  
20 1978, and that it is a substance deleterious to fish and wildlife.

21           CFOF 109. The contents of the three out-of-date transformers attached to  
22 HVI Cat Canyon's power pole at the Bradley 3-Island facility spilled into a creek  
23 which flows into Bradley Lake. [Dkt. No. 434-3 (Dostal Decl.) ¶ 54, TREX  
24 US3082]

25           CFOF 110. Testing of that creek bed showed contamination at 21 parts per  
26 million of PCB. [Dkt. No. 434-3 (Dostal Decl.) ¶ 55]

27           CFOF 111. HVI Cat Canyon admitted it "never thought about the PCBs,"  
28 and HVI Cat Canyon's lead environmental officer reported the spill as "mineral oil"

1 as opposed to harmful PCBs. [Dkt. No. 434-3 (Dostal Decl.) ¶ 54, 58 TREX  
2 US3082]

3 January 29, 2008 Bell Upper Pond Spill (CA Claims 4 and 15)

4 CFOF 112. The Bell Facility included an unlined pond which HVI Cat  
5 Canyon used to separate sediment and produced water from petroleum produced  
6 from nearby wells (Bell Upper Pond). [Stipulated, Dkt. No. 426 at 3:4-6]

7 CFOF 1134. In late December or early January of 2008, an employee stated  
8 that HVI Cat Canyon replaced a metal flow line that ran from the Bell Upper Pond  
9 to the Blochman Ponds with a plastic one. HVI Cat Canyon capped the metal flow  
10 line and left it beneath the subsurface. [Stipulated, Dkt. No. 426 at 3:7-10]

11 CFOF 114. On January 29, 2008, oil and produced water were discharged  
12 from the Bell Upper Pond through the old metal line that was left in the subsurface  
13 after replacing the flow line. The oil and waste water flowed into Palmer Road  
14 Creek. [Dkt. No. 434-3 (Dostal Decl.) ¶ 36, TREX US0012; Dkt. No. 400-12  
15 (Muñoz Dep. Vol. II) 372:24-373:2]

16 CFOF 115. Based upon field measurements conducted by representatives of  
17 HVI Cat Canyon and Wildlife, it was agreed that the materials recovered from  
18 Palmer Road Creek in response to the January 29, 2008 Bell Upper Pond spill  
19 included 125.9 barrels of crude oil that were discharged into Palmer Road Creek.  
20 [Dkt. No. 434-3 (Dostal Decl.) ¶ 43, TREX US0012)]

21 CFOF 116. It is the custom and practice in the oilfield production industry to  
22 remove old corroded flow lines when replacing them with new ones. [Dkt. No.  
23 345-11 (Kinworthy Decl.), ¶¶ 6, 7, Ex. A (Rpt.) at 14-15, 26-27]

24 CFOF 117. Prior to the January 29, 2008 Bell Upper Ponds Spill, HVI Cat  
25 Canyon replaced a corroded metal drainage pipe at that facility with a PVC pipe.  
26 Instead of removing the old pipe, HVI Cat Canyon capped it and left it in place  
27 beneath the Bell Upper Ponds. [Dkt. No. 434-3 (Dostal Decl.) ¶ 38; Dkt. No. 400-  
28 10 (Marroquin Dep.) 136:16-137:3]

1 CFOF 118. Prior to the discovery of the Bell Upper Ponds discharge on  
2 January 29, 2008, the old, corroded metal pipe burst allowing crude oil and waste  
3 water to flow into Palmer Road Creek. [Dkt. No. 434-3 (Dostal Decl.) ¶¶ 39, 41,  
4 TREX US1377; Dkt. No. 400-10 (Marroquin Dep.) 141:3-12]

5 CFOF 119. It is the custom and practice in the oilfield production industry to  
6 regularly inspect check valves such as the one at the Bell Upper Ponds facility and  
7 assure they are operational. [Dkt. No. 345-11 (Kinworthy Decl.), ¶¶ 6, 7, Ex. A  
8 (Rpt.) at 15]

9 CFOF 120. The old, corroded pipe that was left in place at the Bell Upper  
10 Ponds facility had a check valve. However, it was likewise corroded and  
11 inoperable at the time of the January 29, 2008 Bell Upper Ponds Spill. [Dkt. No.  
12 434-3 (Dostal Decl.) ¶ 40, TREX US1377]

13 CFOF 121. Crude oil flowed one and one-quarter miles downstream along  
14 Palmer Road Creek as a result of the January 29, 2008 Bell Upper Pond spill. [Dkt.  
15 No. 434-3 (Dostal Decl.) ¶ 42, TREX US3108]

16 CFOF 122. Crude oil released as a result of the January 29, 2008 Bell Upper  
17 Pond spill caused oiling of the bed and banks of Palmer Road creek, destroying  
18 vegetation and compromising exposed root structures. The impacted stretch of  
19 Palmer Road Creek took two years to recover. [Dkt. No. 434-6 (Connell Decl.)  
20 ¶¶ 54 to 58]

21 CFOF 123. Based upon the lost use of those portions of the one and one-  
22 quarter mile of Palmer Road Creek not previously destroyed by the December 7,  
23 2007 Blochman Pond Overflow – which was still being cleaned up at the time of  
24 the January 29, 2008 Bell Upper Pond spill – the latter caused additional natural  
25 resource damage reasonably valued at \$14,862. [Dkt. No. 434-5 (Stanton Decl.)  
26 ¶¶ 2-10, TREX US0063]

27 CFOF 124. The January 29, 2008 Bell Upper Pond spill caused Wildlife to  
28 incur unreimbursed response costs in the amount of \$65,770.77. [Dkt. No. 345-18

1 (Abe Decl.) ¶¶ 10, 16, TREX CA5009]

2 December 27, 2008 Wrong-Valve Scrubber Spill (CA Claim 16)

3 CFOF 125. On December 26, 2008, HVI Cat Canyon discovered a spill of  
4 crude oil and produced water from one of its flow lines at the Bell Facility. The  
5 spilled materials flowed onto Palmer Road, which is adjacent to Palmer Road  
6 Creek. [Dkt. No. 434-3 (Dostal Decl.) ¶ 45, TREX US0651]

7 CFOF 126. Attempting to stop the flow of crude oil and waste water onto  
8 Palmer Road before these contaminants entered Palmer Road Creek, an HVI Cat  
9 Canyon operator closed a valve on the wrong flow line. [Dkt. No. 434-3 (Dostal  
10 Decl.) ¶ 47; Dkt. No. 400-12 (Muñoz Dep. Vol. II) 424:19-425:6]

11 CFOF 127. After HVI Cat Canyon closed the wrong valve, it continued to  
12 operate oil wells feeding that mistakenly closed line. Pressure in the line built up  
13 due to the closed valve, and eventually the “pop-off” valve of an oil/gas scrubber  
14 was released. [Dkt. No. 434-3 (Dostal Decl.) ¶¶ 47, 48, TREX US0653]

15 CFOF 128. On December 27, 2008, HVI Cat Canyon discovered oil and  
16 waste water flowing from the ruptured scrubber unit, through an adjacent culvert,  
17 and into Spring Canyon Tributary. [Dkt. No. 434-3 (Dostal Decl.) ¶ 48, TREX  
18 US0653; Dkt. No. 434-1 (Chastain Decl.) ¶¶ 5, 6]

19 CFOF 129. At least 165 gallons of crude oil was released into Spring  
20 Canyon Tributary from the scrubber unit at HVI Cat Canyon on December 26 and  
21 27, 2008 as a result of HVI Cat Canyon’s failure to shut down the correct flow line  
22 during a leak on December 26, 2008. [Dkt. No. 434-1 (Chastain Decl.) ¶¶ 7-13,  
23 TREX US3090]

24 CFOF 130. The release of crude oil and waste water from the scrubber unit  
25 flowed for 0.45 miles through the bed and banks of Spring Canyon Tributary. [Dkt.  
26 No. 434-3 (Dostal Decl.) ¶ 48, TREX US3084; Dkt. No. 434-6 (Connell Decl.) 59,  
27 TREX US3093; Dkt. No. 434-1 (Chastain Decl.) ¶ 6]

28 CFOF 131. Spring Canyon Tributary is part of the Santa Maria River

1 watershed and supports a live-oak riparian habitat similar to that supported by  
2 Palmer Road Creek and Zaca Tributary. [Dkt. No. 434-6 (Connell Decl.) ¶ 60; Dkt.  
3 No. 434-1 (Chastain Decl.) ¶ 6]

4 CFOF 132. Spring Canyon Tributary is habitat to insects, reptiles, birds and  
5 small mammals (such as mice). It is also part of the same range for deer, coyote,  
6 mountain lion, bobcat, and black bear the includes Palmer Road Creek. [Dkt. No.  
7 434-6 (Connell Decl.) ¶ 61]

8 CFOF 133. The December 27, 2008 Wrong Valve Spill killed at least one  
9 mouse, destroyed at least one animal burrow, and destroyed most vegetation along  
10 the bed and banks of Spring Canyon Tributary for 0.45 miles. The cleanup  
11 response to that spill caused channelization, decreased sedimentation, destruction of  
12 plants and animals living in the creek bed, and continued erosion of the valuable  
13 habitat supported by Spring Canyon Tributary. [Dkt. No. 434-6 (Connell Decl.)  
14 ¶¶ 62, 63]

15 CFOF 134. The natural resource damage caused by the December 27, 2008  
16 Wrong Valve Spill at HVI Cat Canyon's Bell Facility is reasonably valued at  
17 \$5,027. [Dkt. No. 434-6 (Connell Decl.) ¶ 64]

18 CFOF 135. The December 27, 2008 Wrong Valve Spill at HVI Cat  
19 Canyon's Bell Facility required Wildlife to incur unreimbursed response costs in  
20 the amount of \$37,594.95. [Dkt. No. 345-18 (Abe Decl.) ¶¶ 11, 17, TREX  
21 CA5010.]

22 May 1, 2009 Bell Gathering Line Spill (CA Claim 17)

23 CFOF 136. On May 1, 2009, a reported 15 barrels of crude oil and produced  
24 water escaped from a gathering line at HVI Cat Canyon's Bell Facility. [Dkt. No.  
25 434-3 (Dostal Decl.) ¶ 59, TREX US1223]

26 CFOF 137. The crude oil and waste water that was released from the  
27 gathering line at HVI Cat Canyon's Bell Facility on May 1, 2009, flowed into  
28 Spring Canyon Tributary. [Dkt. No. 434-3 (Dostal Decl.) ¶ 60, TREX US1209,



TREX US1211, TREX US1218]

CFOF 138. Crude oil from the May 1, 2009 Bell Gathering Line Spill stained oak trees, and covered the bed and banks of Spring Canyon Tributary for several hundred feet. [Dkt. No. 434-3 (Dostal Decl.) ¶ 60, TREX US1209, TREX US1211, TREX US1218]

July 2, 2009 Bell Flow Line Spill (CA Claim 18)

CFOF 139. On July 2, 2009, crude oil and produced water was released from a corroded flow line at HVI Cat Canyon's Bell Facility. The Court has previously determined that this fact was established by undisputed evidence. [Order re Pending Motion, Dkt. 205 at 18]

CFOF 140. As a result of the July 2, 2009 Bell Flow Line Spill, crude oil and waste water flowed into Palmer Road Creek. [Dkt. No. 434-3 (Dostal Decl.) ¶ 61, TREX US2629.]

October 14, 2010 Bell Flow Line Spill (CA Claim 19)

CFOF 141. On October 14, 2010, crude oil and produced water was released from a corroded flow line at HVI Cat Canyon's Bell Facility. [Dkt. No. 434-3 (Dostal Decl.) ¶ 62, TREX US0569; Dkt. No. 434-1 (Chastain Decl.) ¶ 19, TREX US0570]

CFOF 142. At least 128.1 gallons of crude oil released as a result of the October 14, 2010 Bell Flow Line Spill flowed into a 600-foot stretch of Palmer Road Creek. [Dkt. No. 434-3 (Dostal Decl.) ¶ 63; Dkt. No. 434-1 (Chastain Decl.) ¶¶ 19, 20, TREX US0570]

**CONCLUSIONS OF LAW RE SUPPLEMENTAL CLAIMS**

CCOL 1. The release of crude oil and waste water into the environment at HVI Cat Canyon's Bell Facility that was discovered on July 16, 2007 caused substantial harm to the People of the State of California.

CCOL 2. HVI Cat Canyon failed to use reasonable care to prevent the environmental harm caused by the July 16, 2007 Bell Family Line Spill because it

1 did not take steps to prevent corrosion of its flow lines, failed to regularly inspect it,  
2 and did not implement a flow line management plan.

3 CCOL 3. HVI Cat Canyon's failure to implement a flow line management  
4 plan at the Bell Facility prior to July 16, 2007 was a violation of Spill Prevention,  
5 Control, and Countermeasure (SPCC) Regulation. 40 CFR § 112.

6 CCOL 4. HVI Cat Canyon's failure to take reasonable steps to prevent  
7 corrosion of the Bell Family Line, its failure to reasonably inspect the Bell Family  
8 Line, and its failure to implement a flow line management plan were each a  
9 substantial factor causing the release of crude oil and produced water from the Bell  
10 Family Line that was discovered on July 16, 2007.

11 CCOL 5. The release of crude oil and produced water from the Bell Family  
12 Line prior to July 16, 2007 was the result of HVI Cat Canyon's negligence, and  
13 negligence per se in violation of 40 CFR § 112.

14 CCOL 6. The release of crude oil and produced water into the environment  
15 that was discovered on July 16, 2007 entered waters of the State of California,  
16 namely Palmer Road Creek. The Court has already so concluded. [Order re  
17 Pending Motion, Dkt. No. 205 at 32]

18 CCOL 7. The July 16, 2007 Bell Family Line Spill was a violation of  
19 California Fish & Game Code sections 5650, 5650.1, 12016 and 13013. Based on  
20 the carelessness of HVI Cat Canyon's conduct, its history of violations, and the  
21 substantial harm to the environment, California is entitled to recover maximum  
22 civil penalties in the amount of \$25,000, natural resource damages in the sum of  
23 \$10,480, and administrative costs totaling \$3,597.11.

24 CCOL 8. The July 16, 2007 Bell Family Line Spill was a violation of  
25 California Water Code section 13350. Based on HVI Cat Canyon's substantial  
26 negligence leading to the corrosion that caused the release, its failure to protect the  
27 environment and its workers during the response to the release, its failure to heed  
28 advice provided by Wildlife regarding training of personnel to adequately respond

1 to oilfield incidents, its past history of oil spills, the gravity of the damage done to  
2 Palmer Road Creek, and the economic benefit HVI Cat Canyon received by failing  
3 to take measures to protect the environment in pursuit of profits, the Court awards  
4 the maximum per gallon penalty under Water Code section 13350 of \$20 per gallon  
5 for each gallon of crude oil released, in the amount of \$246,960. Based on the  
6 foregoing factors, and that spilled produced water soaked into the soil and was not  
7 susceptible to cleanup, the Court further awards \$5 per gallon for each gallon of  
8 produced water released, in the amount of \$3,429,930.

9 CCOL 9. The release of crude oil and waste water into the environment at  
10 HVI Cat Canyon's Bell Facility that was discovered on December 7, 2007 caused  
11 substantial harm to the People of the State of California.

12 CCOL 10. HVI Cat Canyon failed to use reasonable care to prevent the  
13 environmental harm caused by the December 7, 2007 Blochman Ponds Overspill  
14 because it did not implement 24-hour attendance for operations at that facility after  
15 numerous problems with its alarm system, and the failure of a similar system to  
16 prevent an environmental catastrophe.

17 CCOL 11. HVI Cat Canyon failed to use reasonable care to prevent the  
18 environmental harm caused by the December 7, 2007 Blochman Ponds Overspill  
19 because it did not take steps to protect the internal combustion engine operating its  
20 injection pumps from failure due to water intrusion.

21 CCOL 12. HVI Cat Canyon failed to use reasonable care to prevent the  
22 environmental harm caused by the December 7, 2007 Blochman Ponds Overspill  
23 because it did not operate a sufficient number of injection pumping systems to  
24 avoid overflow in the event of foreseeable engine failure.

25 CCOL 13. A reasonably careful oilfield operator would inspect and repair its  
26 pump motors in such a manner as to assure that they are kept in good operating  
27 order; the pump motor that failed, causing the December 7, 2007 Blochman Ponds  
28 Overspill was not in good operating order. Therefore, HVI Cat Canyon failed use

1 reasonable care to prevent the environmental harm caused by the December 7, 2007  
2 Blochman Ponds Overspill by not properly inspecting and repairing that facility.

3 CCOL 14. A reasonably careful oilfield operator would inspect and repair its  
4 containment berms in such a manner as to assure that there were no holes or cracks  
5 in the walls of the facility through which crude oil and waste water could escape  
6 before reaching the top of the containment facility. Therefore, HVI Cat Canyon  
7 failed use reasonable care to prevent the environmental harm caused by the  
8 December 7, 2007 Blochman Ponds Overspill by not properly inspecting and  
9 repairing that facility.

10 CCOL 15. A reasonably careful oilfield operator would not alter its facilities  
11 in such a manner that would divert crude oil and waste water overflowing from a  
12 containment pond away from a secondary containment berm and directly into a  
13 creek bed. Therefore, HVI Cat Canyon failed to exercise reasonable care in the  
14 placement of the Baker tank at its Bell Facility prior to the December 7, 2007  
15 Blochman Ponds Overspill incident.

16 CCOL 16. HVI Cat Canyon's failure to properly inspect, maintain, and  
17 repair the Blochman Ponds facility and associated secondary containment, and its  
18 actions in defeating the prophylactic measures in place at the facility by installing a  
19 Baker tank in such a way as to divert overflow away from secondary containment,  
20 were violations of Spill Prevention, Control, and Countermeasure (SPCC)  
21 Regulation. (40 CFR § 112.) These actions by HVI Cat Canyon are also violations  
22 of regulations promulgated by the California Department of Oil, Gas and  
23 Geothermal Resources (DOGGR) pursuant to the California Public Resources  
24 Code. (Cal. Code Regs. tit. 14, § 1773.1, et seq.)

25 CCOL 17. HVI Cat Canyon's failure to implement 24-hour attendance for  
26 operations at the Bell Facility prior to the December 7, 2007 Blochman Ponds  
27 Overspill, failure to enclose the internal combustion engines used at that facility to  
28 protect against failure from rainwater intrusion, failure to operate a sufficient

1 number of injection pump systems at the Blochman Pond facility for needed  
2 redundancy, failure to properly maintain the Blochman Pond facility to avoid holes  
3 and cracks in containment, and careless placement of a Baker tank at the Bell  
4 Facility such that it diverted the overflow of crude oil and produced water from  
5 Blochman Ponds away from containment and into Palmer Road Creek, were each a  
6 substantial factor in causing the environmental harm suffered by California as a  
7 result of the December 7, 2007 Blochman Ponds Overspill.

8 CCOL 18. The release of crude oil and produced water from the Blochman  
9 Ponds at the Bell Facility during and prior to December 7, 2007 was the result of  
10 HVI Cat Canyon's negligence, and negligence per se in violation of 40 CFR § 112  
11 and regulations promulgated by DOGGR under the California Public Resources  
12 Code, namely California Code of Regulations, title 14, section 1773.1.

13 CCOL 19. The release of crude oil and produced water into the environment  
14 that was discovered at HVI Cat Canyon's Bell Facility on December 7, 2007  
15 entered waters of the state of California, namely Palmer Road Creek. The Court  
16 has already so concluded. [Order re Pending Motion, Dkt. 205 at 32]

17 CCOL 20. The December 7, 2007 Blochman Ponds Overspill was a  
18 violation of California Fish & Game Code sections 5650, 5650.1, 12016 and 13013.  
19 Based on the carelessness of HVI Cat Canyon's conduct, its history of violations,  
20 and the substantial harm to the environment, California is entitled to recover  
21 maximum civil penalties in the amount of \$25,000, natural resource damages in the  
22 sum of \$10,592, and administrative costs totaling \$2,588.31.

23 CCOL 21. The December 7, 2007 Blochman Ponds Overspill was a  
24 violation of California Water Code section 11350. Based on HVI Cat Canyon's  
25 substantial negligence leading up to the release, its failure to protect the  
26 environment with the use of effective containment facilities, its failure to heed  
27 advice provided by Wildlife regarding the establishment and maintenance of such  
28 facilities, its past history of oil spills, the failure to adequately protect the

1 environment during cleanup, the gravity of the damage done to Palmer Road Creek,  
2 and the economic benefit HVI Cat Canyon received by failing to take measures to  
3 protect the environment in pursuit of profits, the Court awards the maximum per  
4 gallon penalty under Water Code section 13350 of \$20 per gallon for each gallon of  
5 crude oil released, in the amount of \$1,779,540. For these reasons, and since  
6 produced water soaks into the ground before recovery, the Court awards \$5 per  
7 gallon for each gallon of produced water, in the amount of \$420,000.

8 CCOL 22. The release of crude oil and waste water into the environment at  
9 HVI Cat Canyon's Zaca Facility that was discovered on January 5, 2008 caused  
10 substantial harm to the People of the State of California

11 CCOL 23. HVI Cat Canyon failed to use reasonable care to prevent the  
12 environmental harm caused by the January 5, 2008 Davis Tank Battery spill  
13 because it did not implement its own procedures for 24-hour manned operations at  
14 the Zaca Facility after numerous problems with its alarm systems, and the failure of  
15 those systems to prevent at least two previous environmental episodes.

16 CCOL 24. HVI Cat Canyon failed to use reasonable care to prevent the  
17 environmental harm caused by the January 5, 2008 Davis Tank Battery spill  
18 because it did not enclose the electric motor driving one of the injection pump  
19 systems to protect it from malfunction due to water intrusion.

20 CCOL 25. HVI Cat Canyon failed to use reasonable care in the selection of  
21 the type of motor to operate the injection pump installed at the Davis Tank Battery,  
22 as the unit in use was not suitable for outdoor operation.

23 CCOL 26. A reasonably careful oilfield operator would inspect and repair its  
24 pump motors in such a manner as to assure that they are kept in good operating  
25 order; the pump motor that failed, causing the January 5, 2008 Davis Tank Battery  
26 spill was not in good operating order. Therefore, HVI Cat Canyon failed to use  
27 reasonable care to prevent environmental harm by not properly inspecting and  
28 repairing the Davis Tank Battery at the Zaca Facility.



1 CCOL 27. HVI Cat Canyon failed to use reasonable care to prevent the  
2 environmental harm caused by the January 5, 2008 Davis Tank Battery spill  
3 because it did not replace or repair the storage system at that facility such that it  
4 operated with two waste water tanks as designed.

5 CCOL 28. HVI Cat Canyon failed to use reasonable care to prevent the  
6 environmental harm caused by the January 5, 2008 Davis Tank Battery spill  
7 because it did because it did not operate a sufficient number of injection pumps to  
8 avoid tank failure in the event of foreseeable engine failure.

9 CCOL 29. A reasonably careful oilfield operator would inspect and repair its  
10 earthen secondary containment berms in such a manner as to assure that there were  
11 no holes or cracks through which crude oil and waste water could escape before  
12 reaching the top of the containment facility. Therefore, HVI Cat Canyon failed use  
13 reasonable care to prevent the environmental harm caused by the January 5, 2008  
14 Davis Tank Battery Spill by not properly inspecting and repairing that facility.

15 CCOL 30. A reasonably careful oilfield operator would have replaced the  
16 earthen containment berm at the Davis Tank Battery, which had failed on at least  
17 one previous occasion, with one made of concrete block or other material not prone  
18 to animal burrows and erosion. Therefore, HVI Cat Canyon failed to use  
19 reasonable care to prevent the environmental harm caused by the January 5, 2008  
20 Davis Tank Battery spill by not replacing the earthen containment berm at that  
21 facility with a more durable structure.

22 CCOL 31. At the time HVI Cat Canyon was made aware that materials were  
23 flowing from the pipe through which crude oil and produced were released during  
24 the January 5, 2008 Davis Tank Battery spill, a reasonably careful oilfield operator  
25 would have inspected that pipe to determine where the flow was coming from.  
26 Once it was determined that flow was out of the secondary containment pond, a  
27 reasonably careful oilfield operator would have installed a check valve on that pipe  
28 to avoid unregulated flow of materials from that secondary containment facility into

1 the environment. Therefore, HVI Cat Canyon failed use reasonable care to prevent  
2 the environmental harm caused by the January 5, 2008 Davis Tank Battery spill by  
3 not properly inspecting its Zaca Facility and installing a needed check valve on the  
4 pipe which drained the Davis Tank Battery secondary containment.

5 CCOL 32. HVI Cat Canyon's failure to properly inspect, maintain, repair  
6 and/or replace the secondary containment facilities at the Davis Tank Battery were  
7 violations of Spill Prevention, Control, and Countermeasure (SPCC) Regulation.  
8 (40 CFR § 112.) These actions by HVI Cat Canyon were also violations of  
9 regulations promulgated by the California Department of Oil, Gas and Geothermal  
10 Resources (DOGGR) pursuant to the California Public Resources Code. (Cal.  
11 Code Regs. tit. 14, § 1773.1, et seq.)

12 CCOL 33. HVI Cat Canyon's failure to implement its procedures for 24-  
13 hour manned operations at the Davis Tank Battery after the 2005 catastrophic tank  
14 failure, failure to enclose the electric engine used at that facility to protect against  
15 malfunction as the result of rainwater intrusion, failure to use a totally enclosed fan-  
16 cooled engine to operate the outdoor injection system which stopped operation  
17 immediately prior to the spill, failure to operate the waste storage and injection  
18 system at the Davis Tank Battery with both waste water tanks as designed, failure  
19 to operate a sufficient number of injection pumps at the Davis Tank Battery for  
20 needed redundancy, failure to properly maintain the Davis Tank Battery secondary  
21 containment, failure to inspect the flow from the pipe that drained materials out of  
22 secondary containment and into Zaca Tributary, failure to place a check valve on  
23 that pipe, and failure to maintain or replace the earthen secondary containment  
24 system at the Davis Tank Battery, were each a substantial factor in causing the  
25 environmental harm suffered by California as a result of the January 5, 2008 Davis  
26 Tank Battery spill.

27 CCOL 34. The release of crude oil and produced water from the Davis Tank  
28 Battery at the Zaca Facility during and prior to January 5, 2008 was the result of

1 HVI Cat Canyon's negligence, and negligence per se in violation of 40 CFR § 112  
2 and regulations promulgated by DOGGR under the California Public Resources  
3 Code, namely California Code of Regulations, title 14, section 1773.1.

4 CCOL 35. The release of crude oil and produced water into the environment  
5 that was discovered at HVI Cat Canyon's Zaca Facility on January 5, 2008 entered  
6 waters of the state of California, namely the Zaca Tributary which flows into Zaca  
7 Creek.

8 CCOL 36. The January 5, 2008 Davis Tank Battery spill was a violation of  
9 California Fish & Game Code sections 5650, 5650.1, 12016 and 13013. Based on  
10 the carelessness of HVI Cat Canyon's conduct, its history of violations, and the  
11 substantial harm to the environment, California is entitled to recover maximum  
12 civil penalties in the amount of \$25,000, natural resource damages in the sum of  
13 \$34,404, and administrative costs totaling \$13,612.46.

14 CCOL 37. The January 5, 2008 Davis Tank Battery spill was a violation of  
15 California Water Code section 11350. Based on HVI Cat Canyon's substantial  
16 negligence leading up to the release, its failure to protect the environment with the  
17 use of effective containment facilities, its failure to heed advice provided by  
18 Wildlife regarding the establishment and maintenance of such facilities, its past  
19 history of oil spills, the gravity of the damage done to Zaca Tributary, the loss of  
20 animal life, HVI Cat Canyon's failure to promptly implement measures to control  
21 and contain the spill, the determination by HVI Cat Canyon contractors and  
22 Wildlife personnel that a substantial portion of the released materials was crude oil,  
23 and the economic benefit HVI Cat Canyon received by failing to take measures to  
24 protect the environment in pursuit of profits, the Court awards the maximum per  
25 gallon penalty under Water Code section 13350 of \$20 per gallon for each gallon of  
26 oil released, in the amount of \$519,120, and \$5 per gallon of produced water  
27 released, in the amount of \$553,140.

28 CCOL 38. The release of oil from the Bradley 3-Island compressor that

1 occurred on January 10, 2008 posed a threat of discharge into waters of the state of  
2 California from that date until its release into those waters from the storm drain  
3 catch basin on January 24, 2008.

4 CCOL 39. The threat of discharge and subsequent release of oil from the  
5 Bradley 3-Island compressor that occurred from January 10, 2008 to January 24,  
6 2008 was in violation of Fish and Game Code sections 5650 and 5650.1.

7 CCOL 40. Because HVI Cat Canyon intentionally ignored the threat of  
8 discharge for 14 days, failed to report the discharge, and intentionally released an  
9 oil sheen from the storm drain catch basin at its Bradley 3-Island facility, and taking  
10 into consideration HVI Cat Canyon's history of multiple spills and poor operation,  
11 California is entitled to the maximum per day penalty for each day of the Bradley 3-  
12 Island release starting when the discharge from the compressor occurred on January  
13 10, 2008 until the day of the release from the storm drain catch basin on January 24,  
14 2008, which totals \$375,000.

15 CCOL 41. The January 24, 2008 discharges from the Omni Vessels and the  
16 Omni Pit at HVI Cat Canyon's U-Cal facility posed a threat of discharge to Bradley  
17 Canyon Creek, which is part of the waters of the state of California.

18 CCOL 42. The threat of discharge of oil from ponded water into Bradley  
19 Canyon Creek that occurred as a result of the January 24, 2008 releases from the  
20 Omni Vessels and Omni Pit were each a violation of Fish and Game Code sections  
21 5650 and 5650.1.

22 CCOL 43. Based on HVI Cat Canyon's failure to empty and clean the Omni  
23 Vessels, failure to report the Omni Vessels discharge, and taking into consideration  
24 HVI Cat Canyon's history of multiple spills and poor operation, California is  
25 entitled to the maximum per day penalty for the Omni Vessel and Omni Pit  
26 releases, totaling \$50,000.

27 CCOL 44. The January 27, 2008 discharge from the waste water tank at HVI  
28 Cat Canyon's Security facility flowed into a tributary that is part of the Santa Maria

1 River watershed and, therefore, waters of the state of California.

2 CCOL 45. The threat of discharge posed by the waste water tank, and the  
3 subsequent release of oily sheen into a nearby tributary that occurred on January 27,  
4 2008, were each violations of Fish and Game Code sections 5650 and 5650.1.

5 CCOL 46. Based on HVI Cat Canyon's failure to properly maintain the  
6 waste water tank at the Security facility, failure to provide adequate secondary  
7 containment to protect the tributary to the Santa Maria River, and taking into  
8 consideration HVI Cat Canyon's history of multiple spills and poor operation,  
9 California is entitled to the maximum per day penalty for the threat of discharge  
10 and release from the Security waste water tank on January 27, 2008, in the amount  
11 of \$25,000.

12 CCOL 47. The January 27, 2008 discharge of PCBs from the fallen power  
13 pole at HVI Cat Canyon's Bradley 3-Island facility flowed into a creek that flows  
14 into Bradley Lake and, therefore, is part of the waters of the state of California.

15 CCOL 48. The discharge of material deleterious to fish and wildlife that  
16 occurred on January 27, 2008 as a result of the fallen power pole at HVI Cat  
17 Canyon's Bradley 3-Island facility was a violation of Fish and Game Code sections  
18 5650 and 5650.1.

19 CCOL 49. Based on HVI Cat Canyon's failure to properly maintain the  
20 power pole at the Bradley 3-Island facility, failure to replace the transformers  
21 containing PCBs with ones that would protect the environment, failure to report the  
22 presence of PCB contamination resulting from the fallen power pole, and taking  
23 into consideration HVI Cat Canyon's history of multiple spills and poor operation,  
24 California is entitled to the maximum per day penalty for the release of PCBs from  
25 a fallen power pole on January 27, 2008, in the amount of \$25,000.

26 CCOL 50. The release of crude oil and waste water into the environment at  
27 HVI Cat Canyon's Bell Facility that was discovered on January 29, 2008 caused  
28 substantial harm to the People of the State of California

1 CCOL 51. HVI Cat Canyon failed to use reasonable care to prevent the  
2 environmental harm caused by the January 29, 2008 Bell Upper Ponds spill because  
3 it did not replace the corroded metal pipe beneath that facility, but instead capped it  
4 and left it in place. No reasonably responsible oilfield operator would have allowed  
5 a corroded metal pipe to remain in place such that the integrity of a containment  
6 pond remained at risk should the pipe fail.

7 CCOL 52. HVI Cat Canyon failed to use reasonable care to prevent the  
8 environmental harm caused by the January 29, 2008 Bell Upper Ponds spill because  
9 it did not repair or replace the corroded check valve on the drainage pipe that failed.  
10 HVI Cat Canyon further failed to use reasonable care to assure the valve was  
11 operable in case the drainage pipe leaked. No reasonably responsible oilfield  
12 operator would allow a check valve designed to protect the environment to become  
13 so corroded as to fail in the manner that occurred at this facility on January 29,  
14 2008.

15 CCOL 53. HVI Cat Canyon's failure to properly inspect, maintain, repair  
16 and/or replace the drainage pipe and associated check valve at the Bell Upper Ponds  
17 facility were violations of Spill Prevention, Control, and Countermeasure (SPCC)  
18 Regulation. (40 CFR § 112.) These actions by HVI Cat Canyon were also  
19 violations of regulations promulgated by the California Department of Oil, Gas and  
20 Geothermal Resources (DOGGR) pursuant to the California Public Resources  
21 Code. (Cal. Code Regs. tit. 14, § 1773.1, et seq.)

22 CCOL 54. HVI Cat Canyon's failure to remove the old corroded drainage  
23 pipe at the Bell Upper Ponds facility, and its failure to inspect, maintain, repair  
24 and/or replace the check valve on that drainage pipe, were each a substantial factor  
25 that caused the January 29, 2008 Bell Upper Ponds spill.

26 CCOL 55. The release of crude oil and produced water from the Bell Upper  
27 Ponds at the Bell Facility during and prior to January 29, 2008 was the result of  
28 HVI Cat Canyon's negligence and negligence per se in violation of 40 CFR § 112



1 and regulations promulgated by DOGGR under the California Public Resources  
2 Code, namely California Code of Regulations, title 14, section 1773.1.

3 CCOL 56. The release of crude oil and produced water into the environment  
4 that was discovered at HVI Cat Canyon's Bell Facility on January 29, 2008 entered  
5 waters of the state of California, namely Palmer Road Creek. The court has already  
6 so concluded. [Order re Pending Motion, Dkt. 205 at 32.]

7 CCOL 57. The January 29, 2008 Bell Upper Ponds Spill was a violation of  
8 California Fish & Game Code sections 5650, 5650.1, 12016 and 13013. Based on  
9 the carelessness of HVI Cat Canyon's conduct, its history of violations, and the  
10 substantial harm to the environment, California is entitled to recover maximum  
11 civil penalties in the amount of \$25,000, natural resource damages in the sum of  
12 \$14,862, and administrative costs totaling \$65,770.77.

13 CCOL 58. The January 29, 2008 Bell Upper Ponds Spill was a violation of  
14 California Water Code section 13350. Based on HVI Cat Canyon's substantial  
15 negligence leading to the failure of the old metal line that corroded, failed and  
16 caused the release, its past history of oil spills, the gravity of the damage done to  
17 Palmer Road Creek, and the economic benefit HVI Cat Canyon received by failing  
18 to take measures to protect the environment in pursuit of profits, the Court awards  
19 the maximum per gallon penalty under Water Code section 13350 of \$20 per gallon  
20 for each gallon of crude oil released, in the amount of \$105,756.

21 CCOL 59. The release of crude oil and waste water into the environment at  
22 HVI Cat Canyon's Bell Facility that was discovered on December 27, 2008 caused  
23 substantial harm to the People of the State of California.

24 CCOL 60. HVI Cat Canyon failed to use reasonable care to prevent the  
25 environmental harm caused by the December 27, 2008 Wrong Valve Scrubber Spill  
26 because its valves at the Bell Facility were not plainly labeled as part of a flow line  
27 management plan.

28 CCOL 61. A reasonably careful oilfield operator would properly supervise

1 its employee during a spill response to assure he/she was closing the valve on the  
2 line that was shut-down due to the release of oil and produced water that was  
3 discovered on December 26, 2008.

4 CCOL 62. HVI Cat Canyon failed to use reasonable care to prevent the  
5 environmental harm caused by the December 27, 2008 Wrong Valve Scrubber Spill  
6 because it did not adequately inspect the Bell Facility after discovering the  
7 December 26, 2008 spill to make sure the leaking line was properly shut down.

8 CCOL 63. The release of crude oil and produced water into the environment  
9 that was discovered at HVI Cat Canyon's Bell Facility on December 27, 2008  
10 entered waters of the state of California, namely Spring Canyon Tributary. The  
11 court has already so concluded. [Order re Pending Motion, Dkt. 205 at 32.]

12 CCOL 64. The December 27, 2008 Wrong Valve Scrubber Spill was a  
13 violation of California Fish & Game Code sections 5650, 5650.1, 12016 and 13013.  
14 Therefore, based on the carelessness of HVI Cat Canyon's conduct, and its history  
15 of violations, California is entitled to recovery of civil penalties for two days of  
16 violations (December 26 and 27, 2008) at the maximum amount totaling \$50,000,  
17 natural resource damages in the sum of \$5,027, and administrative costs totaling  
18 \$37,594.95.

19 CCOL 65. The release of crude oil and waste water into the environment at  
20 HVI Cat Canyon's Bell Facility that was discovered on May 1, 2009 caused  
21 substantial harm to the People of the State of California.

22 CCOL 66. HVI Cat Canyon's failure to implement effective corrosion  
23 control measures at the Bell Facility, failure to regularly inspect its Bell Facility  
24 flow lines, and failure to implement a meaningful flow line management plan at the  
25 Bell Facility, were each a substantial factor in causing the May 1, 2009 Bell  
26 Gathering Line Spill.

27 CCOL 67. The release of crude oil and produced water into the environment  
28 that was discovered at HVI Cat Canyon's Bell Facility on May 1, 2009 entered

1 waters of the state of California, namely Spring Canyon Tributary. The Court has  
2 already so concluded. [Order re Pending Motion, Dkt. 205 at 32]

3 CCOL 68. The May 1, 2009 Bell Gathering Line Spill was a violation of  
4 California Fish & Game Code sections 5650, 5650.1, 12016 and 13013. Based on  
5 the carelessness of HVI Cat Canyon's conduct, and its history of violations,  
6 California is entitled to recover maximum civil penalties in the amount of \$25,000.

7 CCOL 69. The release of crude oil and waste water into the environment at  
8 HVI Cat Canyon's Bell Facility that was discovered on July 2, 2009 caused  
9 substantial harm to the People of the State of California.

10 CCOL 70. HVI Cat Canyon's failure to implement effective corrosion  
11 control measures at the Bell Facility, failure to regularly inspect its Bell Facility  
12 flow lines, and failure to implement a meaningful flow line management plan at the  
13 Bell Facility, were each a substantial factor in causing the July 2, 2009 Bell Flow  
14 Line Spill.

15 CCOL 71. The release of crude oil and produced water into the environment  
16 that was discovered at HVI Cat Canyon's Bell Facility on July 2, 2009 entered  
17 waters of the state of California, namely Palmer Road Creek. [Order re Pending  
18 Motion, Dkt. 205 at 32]

19 CCOL 72. The July 2, 2009 Bell Flow Line Spill was a violation of  
20 California Fish & Game Code sections 5650, 5650.1, 12016 and 13013. Based on  
21 the carelessness of HVI Cat Canyon's conduct, and its history of violations,  
22 California is entitled to recover maximum civil penalties in the amount of \$25,000.

23 CCOL 73. The release of crude oil and waste water into the environment at  
24 HVI Cat Canyon's Bell Facility that was discovered on October 14, 2010 caused  
25 substantial harm to the People of the State of California.

26 CCOL 74. HVI Cat Canyon's failure to implement effective corrosion  
27 control measures at the Bell Facility, failure to regularly inspect its Bell Facility  
28 flow lines, and failure to implement a meaningful flow line management plan at the

1 Bell Facility, were each a substantial factor in causing the October 14, 2010 Bell  
2 Flow Line Spill.

3 CCOL 75. The release of crude oil and produced water into the environment  
4 that was discovered at HVI Cat Canyon's Bell Facility on October 14, 2010 entered  
5 waters of the state of California, namely Palmer Road Creek. [Order re Pending  
6 Motion, Dkt. 205 at 32.]

7 CCOL 76. The October 14, 2010 Bell Flow Line Spill was a violation of  
8 California Fish & Game Code sections 5650, 5650.1, 12016 and 13013. Based on  
9 the carelessness of HVI Cat Canyon's conduct, and its history of violations,  
10 California is entitled to recover maximum civil penalties in the amount of \$25,000.

11 Dated: December 17, 2018

Respectfully submitted,

12  
13 XAVIER BECERRA  
14 Attorney General of California  
ERIC M. KATZ  
Supervising Deputy Attorney General

15  
16 /s/Michael T. Zarro  
17 MICHAEL T. ZARRO  
18 Deputy Attorney General  
19 *Attorneys for Plaintiffs People of the*  
20 *State of California ex rel. California*  
21 *Department of Fish and Game and*  
22 *California Regional Water Quality*  
23 *Control Board, Central Coast Region*  
24  
25  
26  
27  
28

### CERTIFICATE OF SERVICE

Case **United States v. HVI Cat** No. **CV 11-05097 FMO (SSx)**  
Name: **Canyon, Inc., f/k/a Greka**  
**Oil and Gas, Inc.**

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I hereby certify that on December 17, 2018, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**STATE OF CALIFORNIA'S PROPOSED FINDINGS OF FACT AND  
CONCLUSIONS OF LAW RE SUPPLEMENTAL CLAIMS  
[POST-TRIAL]**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 17, 2018, at Los Angeles, California.

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Carol Chow  
Declarant

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*/Carol Chow*  
Signature